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FEB 06 2008

STATE OF MINNESOTA  
BOARD OF ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE  
AND INTERIOR DESIGN

In the Matter of  
David Remely, Unlicensed

SETTLEMENT AGREEMENT  
AND  
CEASE AND DESIST ORDER

Board File No. 2004-0015

TO: David Remely  
Remely Architects  
553 Wildwood Avenue  
St. Paul, MN 55110

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2006) and Minnesota Statutes section 326.111 (2006) to review complaints concerning the unauthorized practice of architecture, professional engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning David Remely ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Respondent and the Committee as

follows:

1. Jurisdiction. Pursuant to Minnesota Statutes section 326.111, Subdivision 3 (2006), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from practicing as an Architect in the State of Minnesota. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement and Cease and Desist Order.

2. Facts. This Settlement Agreement is based upon the following facts:

- a. Respondent was licensed as an Architect on March 5, 1969.
- b. Respondent's Architect licensed expired on June 30, 2002.
- c. Respondent is not currently licensed by the Board as an Architect in the State of Minnesota.
- d. Respondent was assigned to The Swenson-Peterson Funeral Home project in Howard Lake, MN in mid 2001. The project was an ADA (American Disability Act) remodel fix.
- e. Respondent admits in a letter dated August 29, 2005, addressed to the Board: "In mid 2001 by previous contact or word of mouth the FHS was contacted by The Swanson-Peterson Funeral Home in Howard Lake, MN. My registration was still current. The project was actually an ADA remodel fix. Less than \$100,000 as I recall, and took a long time to bring to bid and construction owing to the clients funding source. The project was bid in May of 2002 and when permit time arrived, I realized my registration was lapsed and wrote the building inspector the attached memo, Exhibit ONE, stating it was an exempt project. Accordingly the documents were

not architecturally certified. At that time I had full intent of renewing Minnesota. A copy of A3, floor plan (Exhibit TWO) of the permit sheets is attached, it illustrates the start and finish dates of the project in the printed date column and also contains the preparer status I placed on the permit set as the project, per Minnesota Rule 1800.5200 Subpart 3 and/or ADA compliance was exempt per my understanding and the understanding of the building official." The Swanson-Peterson Funeral Home project was **not** exempt and required the work to be done by a licensed architect under Minnesota Statutes section 326.02 - 326.15 (2006). The Swanson Funeral Home project was not exempt under Minnesota Rules Chapter 1800.5200 (2005) for two significant reasons. First, an exit was added thereby changing the exiting pattern and making the remodeling project non-exempt. Second, there was an identified need to have compliance with the American Disability Act (ADA) and Minnesota State Building Code (MSBC) impacting the health, safety, and public welfare thereby again requiring the design of a Minnesota licensed professional and taking the project out of the exempt classification. American Disability Act (ADA) projects are a risk to the health, safety, and public welfare. A true and correct copy of the August 29, 2005 letter addressed to the Board is attached as Exhibit A.

f. Respondent admits to signing two sets of general construction documents for the Swanson-Peterson Funeral Home project on his letter dated August 12, 2002, to Rob Beckfeld, Building Inspector, for Howard Lake, MN. Additionally, Respondent admits that he signed the drawings as a plan preparer for exempt construction and that the alternate reason is that he was a few continuing educational

hours short of the amount needed to send in his renewal of his Architect's license. Respondent states: "We are not making any changes to the occupant load or exiting, other than adding one exit through the previous garage". Exits do change the exiting patterns and impact the health, safety, and public welfare of Minnesota citizens and a licensed Architect is required to design them. A true and correct copy of the August 12, 2002 letter addressed to Rob Beckfeld, Building Inspector for Howard Lake, MN is attached as Exhibit 1.

g. Respondent admits the Swanson-Peterson Funeral Home project start and finish dates, were printed in the date column on a copy of an A3-floor plan, for the Swanson-Peterson Funeral Home project. The dates of August 16, 2002, September 25, 2002, and October 12, 2002 were after his license expired on June 30, 2002. A true and correct copy of the floor plan for the Swanson-Peterson Funeral Home project, A 3, is attached as Exhibit 2.

h. Respondent contends that his architect license lapsed due to not maintaining his continuing education units by 6/30/2002, during the time the Respondent was working on the Swanson-Peterson Funeral Home project. Respondent contends that in 2002, Minnesota Rule 1305.0106 gave building officials authority to use their discretion whether to require an architect, and authorized building officials to override Minnesota Statutes and Rules administered and enforced by the Board. Respondent contends that on the Swanson-Peterson Funeral Home project, the Building Official could have required him to have current architect registration or obtain another currently registered architect to work on the project.

3. Violations. The Committee's position is that the facts specified in sections 2a. through 2g. above constitute violations of Minnesota Statutes section 326.02, Subdivision 1, Minnesota Statutes section 326.02, Subdivision 2, and Minnesota Statutes section 326.03, Subdivision 1 (2006) and are sufficient grounds for the enforcement action specified below. Respondent denies violating any provisions of Minnesota law enforced by the Board. However, the Committee and Respondent wish to resolve the complaint against Respondent by mutually agreeing to the enforcement action specified in paragraph 4 below.

4. Enforcement Action. Respondent and the Committee agree that the Board may issue an Order in accordance with the following terms:

Cease and Desist Order. Respondent shall cease and desist from practicing architecture in Minnesota, and from further violations of Minnesota Statutes sections 326.02 through 326.15 (2006) until such time as he becomes licensed as an architect in the State of Minnesota.

5. Judicial Relief. If the Respondent violates paragraph 4 above, a district court of this state may, upon application of the Committee, enter an Order enjoining Respondent from such unauthorized practices, ordering Respondent to show cause why the required civil penalty has not been paid, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

6. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement and Cease and Desist Order, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the

Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2006). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order requiring the action specified in paragraph 4 herein. Respondent waives the right to any judicial review of this Settlement Agreement and Cease and Desist Order or the attached Board Order by appeal, writ or certiorari, or otherwise.

7. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement and Cease and Desist Order, this Settlement Agreement shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2006), Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

8. Record. The Settlement Agreement, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Settlement Agreement.

9. Data Classification. Under the Minnesota Government Data Practices Act, this Settlement Agreement and Cease and Desist Order is classified as public data upon

its issuance by the Board, Minnesota Statutes section 13.41, Subdivision 5 (2006). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2006). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Settlement Agreement and Cease and Desist Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practice of architecture.

10. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Settlement Agreement and which is not directly related to the specific facts and circumstances set forth herein.

11. Entire Agreement. Respondent has read, understood, and agreed to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

12. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

13. Service. If approved by the Board, a copy of this Settlement Agreement

and Cease and Desist Order shall be served personally or by first class mail on Respondent. The Settlement Agreement shall be effective and deemed issued when it is signed by the Chair of the Board.



RESPONDENT

David V. Remely

David Remely

Dated: 2/4/08

COMPLAINT COMMITTEE

BY: Billie Lawton  
Billie Lawton, Public Member  
Complaint Committee Chair

Dated: 2/7/2008

ORDER

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and hereby issued as an Order of this Board on this the 15<sup>TH</sup> day of FEBRUARY, 2008.

MINNESOTA BOARD OF  
ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE  
ARCHITECTURE, GEOSCIENCE AND  
INTERIOR DESIGN

By: Jerome Allen Ritter

Jerome Allen Ritter, Architect, CID  
Board Chair

David Remely  
553 Wildwood Ave.  
Birchwood Village, MN 55110

29 Aug 2005

RECEIVED

AUG 31 2005

Minnesota Board of AELSLAGID  
85 East 7<sup>th</sup> Place  
Suite 160  
St. Paul, MN 55101

Attn: Patricia Munkel-Olson

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Dear MS Munkel-Olson

RE: 2004-0015

I remain completely baffled as to how my activities over the past several years could have possibly generated a complaint or that any complaint could have merit.

Hopefully you and the Board will agree after reviewing my history over the last 5 years or so.

It was about 1998, approaching retirement that my wife and I decided to begin phasing down and move to Wisconsin to be near our children, pending grandchildren (there are now 3) and our favorite outdoor activities. I began phasing down my practice reducing employees, office space and promotion in Minnesota.

In 1999 I opened an office in Richmond, WI. By June of 2000 I no longer had employees. In October of 2001 I officed out my home in St. Cloud. In May of 2002 we decided to make the move to Wisconsin. We purchased land North of New Richmond, WI.

It was in 99 when a Funeral Home Consultant (FHC) for whom I had designed several projects in the past contacted me. They were interested in my taking on several projects, one in each of three States, Indiana, Wisconsin, Nebraska and if all went well, future projects. With the possibility of never having to promote again, I jumped at the opportunity, and have been doing one or two funeral homes per year ever since. The projects are given to me, no promotion, I don't advertise, knock on doors, send our mailings, have no brochure, no web site, etc.

By early 2000 the relationship with the FHC was working well, the projects are in the 7,000 s.f. range and I could do most of the work by myself and did not need the front of an office so the New Richmond Office was closed. By mid June I no longer had employees, and no need to promote my practice. Any Clients other than the FHC were from previous contacts or repeats.

It is now important to realize that the FHC does not promote his consultation service in Minnesota since there are at least two other consultants, Miller Architects and Builders and Terwissha Construction that have sales men knocking on the door of every funeral home in the State. The FHC I do projects for promotes in the Midwest, excluding Minnesota and the Dakota's. The FHC's other office in St. Louis takes care of the Southern and Coastal States and they work with an Architect in St. Louis that is registered in about 25 States, including some of the States I am registered in.

In mid 2001 by previous contact or word of mouth the FHC was contacted by The Swanson-Peterson Funeral Home in Howard Lake, MN. My registration was still current. The project was actually an ADA remodel fix. Less than \$100,000 as I recall, and took a long time to bring to bid and construction owing to the clients funding source.

EXHIBIT A

The project was bid in May of 2002 and when permit time arrived, I realized my registration was lapsed and wrote the building inspector the attached memo, Exhibit ONE, stating it was an exempt project. Accordingly the documents were not architecturally certified. At that time I had full intent of renewing Minnesota. A copy of A3, floor plan (Exhibit TWO) of the permit sheets is attached, it illustrates the start and finish dates of the project in the printed date column and also contains the preparer status I placed on the permit set as the project, per Minnesota Rule 1800.5200 Subp. 3 and/or ADA compliance was exempt per my understanding and the understanding of the building official.

Several days after the memo was sent an occurrence changed the life of my wife and I forever. During a routine physical, my wife's doctor became suspicious of a potential problem and ordered a CT scan that same day. The next day the doctor requested an immediate meeting with both my wife and I. We were informed my wife had ovarian cancer in stage 3, and that immediate surgery was necessary. We were given 10 minutes to decide between Mayo and the U of M where pre-operative meetings were tentatively scheduled. We choose the U of M, and the surgery took place several days later.

A few weeks before the physical we had placed our St. Cloud home up for sale and were going to Wisconsin. It sold the day after my wife's surgery. From the day we left for the surgery we never lived in our St. Cloud home again. A small home was rented a short travel time from the Hospital and clinic where postoperative chemo and follow up would take place. That was 3 years ago, we are still there as my wife is now on her fourth round of chemo owing to continuing reoccurrences of non-operative tumor growth.

Previous to this I began working on a project in Fairmont MN, This project was not promoted, but came by word of mouth, after the client had fired Miller Architects and Builders. The agreement I have with the FHC delays proceeding into design development, until they have market studies, performance, business plan, land selected or issues cleared, zoning and site buildability resolved, financial feasibility confirmed and mortgages pre approved. My initial responsibility is rough preliminaries and the potential cost of the intended construction. By the time this project came to design development, my registration was lapsed, and CEU's were not complete since most of my time was tending to my wife during post surgery, a serious infection after surgery, moving and basic financial survival. So I searched for an architect to take over the project. I found a local architect to do so. Douglas Danks, lisc #23221 He is the architect of record, prepared the majority of the drawings; I did some drafting and consultation regarding specialties of funeral home items. A copy of our agreement is attached. Exhibit THREE.

Regarding the La Grande office building, I was contacted by Eldon Johnson back in 2001 to study the feasibility of an office building for his realty firm. The chosen site had many drawbacks and constraints and required negotiations with neighbors. I assisted him in that regard, as his plate was full of other activities, I did some preliminary designs and cost estimates in that regard. When I contemplate moving, I referred him to one or two architects, David Weisner reg. #24226 of St. Cloud, and Harry Schroeder of Blaine (now deceased). The last resume I produced mentioning anything other than funeral homes was in late 91 or early 92, it lists the La Grande project in the design phase section, which it was. If there are still some of these resumes floating around and/or if the project was actually performed by someone else, I have no idea, but since deciding to move in May of 2002, I have made no claims to that project. A copy of my 2000 resume listing it as In Design is attached, Exhibit FOUR. And a copy of the last drawing I did for Mr. Johnson dated 1/31/02, Exhibit FIVE.

Minnesota Architects hired 11/97 to 5/99. Cannot answer at this time, the only retrievable backup data I have in immediate possession go back to mid 2000. I spent Saturday looking through some boxes for floppies with no luck. If found, computer

changes and new programs may say they are unreadable. A substantial of 5 year and older paper files were tossed at he move. I do recall spending a great deal of time in 97 and 98 removing myself from several real estate partnerships, at an enormous financial loss, to take care of some Tax issues. I believe there was a period in 98 when the tax commissioner suspended my license. Luckily I was working on several large apartment projects in South Dakota, which allowed me to keep my main drafter.

As far as a residence in Rice for Bernick, I did a large number of projects for Dick Bernick of Bernick's Pepsi-Cola in Waite Park including 5 or 6 residences for members of his family. The last project was for Jason Bernick in 1996 before Mr. Bernick retired. I am not sure if it is in Rice. If one of the plans were repeated lately, it is without my knowledge.

Since May 2002 I have been referring any calls received regarding service proposals to Dave Weisner or Doug Danks. Also Architect Charles West reg. #23549 has been helping me out on several projects, whenever the medical situation demands my time, he is learning the intricacies of Funeral Homes, with the plan that if any projects in Minnesota surface he would be the architect as well as possibly take over my practice as I am now approaching 67. In the interest and need for frugality in retirement I have also let Indiana lapse since St. Louis can handle most of Indiana more efficiently than I.

Also enclosed is my 2004 resume list, Exhibit SIX. Not all in feasibility and planning get the green light.

Only several exhibits have been attached. The rapid move from a 3,000 s.f. home in St. Cloud to a 970 s.f. residence in Birchwood has scattered all but bare necessary possessions including office files to three storage locations, 2 garages in St. Cloud, a indoor storage unit in Woodbury and a floor to ceiling packed garage at our residence. If additional material is required, I sincerely do not know when we will have organized access to our possessions and or files.

To avoid any potential confusion, I am making sure the local phone books do not have me listed in any Architect classification. A copy of my business card 2001 and current is also enclosed. Exhibit 7. I will also check with my FHC to make sure they are not using any material listing me as licensed in Minnesota.

If our situation changes and the forecast of our stay in Minnesota appears indefinite, I will pursue the possibility of becoming licensed in Minnesota again assuming I will not have to bear the cost of going through NCARB.

Meanwhile, I am an architect that practices in Wisconsin, Illinois, Michigan and Nebraska that lives in Minnesota with the hope that God will be willing to allow my wife and I to move to Wisconsin soon.

If it is at all permitted I would like to know the source and specifics of the complaint.

Sincerely, and in the best spirit to cooperate in resolving this issue,

*David V. Remely*

David V. Remely

Remely Architects  
Rational Architecture  
Casual Professionalism

\* 8/12/02

Rob Beckfeld, Building Inspector  
c/o City of Howard Lake  
Howard Lake, MN

Re: Swanson-Peterson Funeral Home

Dear Mr. Beckfeld

Enclosed are two signed sets of General construction documents for the above project. The respective contractors will provide any HVAC, Plumbing, or electrical drawings required.

\* We are not making any changes to the occupant load or exiting, other than adding one exit through the previous garage. The major intent of the project was to add handicap rest rooms on the main level, provide a vestibuled entrance and lobby and clean up the interior finishes.

\* As such I have signed the drawings as a plan preparer for exempt construction. The alternate reason is that I am a few CEU's short of the amount needed to send in my renewal of my Architects license. If I'm reading the exempt rule incorrectly, I will submit a signed and sealed set as soon as I catch up on my CEU's. In the meantime, if this is an issue, please do not let it hold up the permit, as they are anxious to start, and I am pursuing the balance of my CEU's.

Thanks in advance.

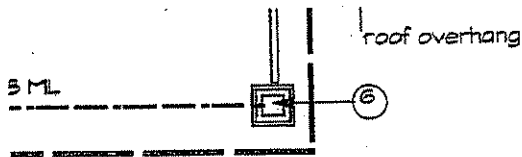
Sincerely,

David V. Remely

Exhibit 1

118 16th Ave So.  
St. Cloud, MN 56301  
Phone: (320) 252-5272  
Fax: (320) 252-7564

1004-0015



PROJECT:

Swanson - Peterson  
Funeral Home

HOWARD LAKE, MN

CONTRACTOR:

Rokala Construction  
Box 244  
Cokato, MN 55321

ROOM FINISHES

**INGS**

ypsum board - medium spray textured.  
it used  
ypsum Board - prime oil base, finish enamel gloss  
uspended ACT 2' x 2' grid

**LS**

sum board - spray textured  
Brd. latex prime, latex eggshell finish  
Gypsum board 2 coats latex enamel  
sum Board - vinyl wall covering  
sum Board - latex prime  
used  
Brd. prime oil base, enamel gloss finish

**IRS**

et, direct glue down  
et with enhancer pad direct glue down  
it vinyl seamless, 12' wide  
it vinyl  
mic tile or quarry tile  
rete, sealer A  
rete, sealer B  
mic tile with carpet border

d, 2 5/8"

4, 4"

4, 4" intergal cove.

mic tile or quarry tile

**IS**

stained and varnished cove moulding at ceiling/wall junction.

stained and varnished chair moulding at +30.  
er to floor plan for location change in floor covering.  
wall covering at wall moulding inserts

ARCHITECT:

**REMELY ARCHITECTS**  
Rational Architecture

118 16th Ave So.  
SAINT CLOUD, MN 56301-3822  
TELEPHONE 320-252-5272  
FAX: 320-252-7564

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CONSTRUCTION / PERMIT SET

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME AND THAT REASONABLE CARE HAS BEEN GIVEN TO THE COMPLIANCE WITH APPLICABLE LAWS, ORDINANCES, AND BUILDING CODES RELATED TO DESIGN.

DATE

SIGNATURE

PRINTING DATE:

4/4/01  
2/18/02  
4/15/02  
5/2/02  
6/29/02  
8/16/02  
9/25/02 add stair  
10/12/02 truss bearing

ISSUE DATE:

8/16/02

PROJECT NO:

2113

**A 3**

OF 5

Exhibit 2

2004-0015

AFFIDAVIT OF SERVICE BY MAIL

RE: In the matter of David Remely, Unlicensed  
File Number 2004-0015

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

Lynette DuFresne, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 12<sup>th</sup> day of December, 2007, she served the attached [Proposed] Settlement Agreement and Cease and Desist Order by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class and certified postage prepaid, and addressed to:

Mr. David Remely  
Remely Architects  
553 Wildwood Avenue  
St. Paul, MN 55110

Lynette M. DuFresne  
Lynette DuFresne

Subscribed and sworn to before me on this  
the 12<sup>th</sup> day of December, 2007.

Sheri L. Lindemann  
(Notary Public)

